

David Austin, Individually and as
Administrator of the Estate of Bonnie
Austin, Deceased.

VS.

Mount Carmel Health System d/b/a
Mount Carmel West, et al.,

Defendants.

Case No. 2019 CV 0405

Judge David C. Young

Jury Demand Endorsed Hereon

Now comes Defendant William S. Husel, D.O., and answers Plaintiff's Amended Complaint as follows:

1. This answering Defendant admits the allegations in paragraphs 17 and 18 of Plaintiff's Amended Complaint.

2. This answering Defendant specifically admits this Defendant, William S. Husel, D.O., was a resident of Ohio, duly licensed to practice medicine in Ohio and practiced in Franklin County, Ohio. Further answering, this Defendant specifically admits he was employed by Mount Carmel Medical Group. For want of knowledge, because they are not true, or as a matter of form because the allegations are not directed at this answering Defendant and/or require no responsive pleading, this answering Defendant denies any and all remaining allegations made and contained in paragraphs 6 and 7 of Plaintiff's Amended Complaint.

3. For want of knowledge, because they are not true, or as a matter of form because the allegations are not directed at this answering Defendant and/or require no responsive pleading, this answering Defendant denies any and all allegations made and

contained in paragraphs 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of Plaintiff's Amended Complaint.

4. In answer to paragraph 29 of Plaintiff's Amended Complaint, this answering Defendant re-alleges and re-avers any and all answers, responses and defenses made and contained in response to paragraphs 1 through 28 of Plaintiff's Amended Complaint, as if fully rewritten herein.

5. For want of knowledge, because they are not true, or as a matter of form because the allegations are not directed at this answering Defendant and/or require no responsive pleading, this answering Defendant denies any and all allegations made and contained in paragraphs 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 and 41 of Plaintiff's Amended Complaint.

6. In answer to paragraph 42 of Plaintiff's Amended Complaint, this answering Defendant re-alleges and re-avers any and all answers, responses and defenses made and contained in response to paragraphs 1 through 41 of Plaintiff's Amended Complaint, as if fully rewritten herein.

7. For want of knowledge, because they are not true, or as a matter of form because the allegations are not directed at this answering Defendant and/or require no responsive pleading, this answering Defendant denies any and all allegations made and contained in paragraphs 43, 44, 45, 46, 47, 48, 49 and 50 of Plaintiff's Amended Complaint.

8. In answer to paragraph 51 of Plaintiff's Amended Complaint, this answering Defendant re-alleges and re-avers any and all answers, responses and defenses made and contained in response to paragraphs 1 through 50 of Plaintiff's Amended Complaint, as if fully rewritten herein.

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9. For want of knowledge, because they are not true, or as a matter of form because the allegations are not directed at this answering Defendant and/or require no responsive pleading, this answering Defendant denies any and all allegations made and contained in paragraphs 52, 53, 54 and 55 of Plaintiff's Amended Complaint.

10. In answer to paragraph 56 of Plaintiff's Amended Complaint, this answering Defendant re-alleges and re-avers any and all answers, responses and defenses made and contained in response to paragraphs 1 through 55 of Plaintiff's Amended Complaint, as if fully rewritten herein.

11. For want of knowledge, because they are not true, or as a matter of form because the allegations are not directed at this answering Defendant and/or require no responsive pleading, this answering Defendant denies any and all allegations made and contained in paragraphs 57, 58 and 59 of Plaintiff's Amended Complaint.

12. In answer to paragraph 60 of Plaintiff's Amended Complaint, this answering Defendant re-alleges and re-avers any and all answers, responses and defenses made and contained in response to paragraphs 1 through 59 of Plaintiff's Amended Complaint, as if fully rewritten herein.

13. For want of knowledge, because they are not true, or as a matter of form because the allegations are not directed at this answering Defendant and/or require no responsive pleading, this answering Defendant denies any and all allegations made and contained in paragraphs 61 and 62 of Plaintiff's Amended Complaint.

14. This answering Defendant denies any and all allegations set forth in Plaintiff's Amended Complaint that are not specifically admitted as true herein.

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AFFIRMATIVE DEFENSES

15. This Defendant is immune to this suit and not liable in damages in this tort or any tort of this nature pursuant to statute set forth in R.C. 1337.15 et. seq. and R.C. 2133.11 et. seq.

16. Plaintiff's Amended Complaint, in whole or in part, fails to state a claim upon which relief may be granted.

17. Plaintiff's claims for recovery are barred by the equitable doctrines of waiver, estoppel and/or laches.

18. Plaintiff has failed to join necessary and/or indispensable parties pursuant to Rules 19 and 19.1 of the Ohio Rules of Civil Procedure.

19. Plaintiff and/or Plaintiff's decedent's claimed injuries and damages were caused by the superseding and/or intervening acts of other parties or persons over whom this Defendant had and could have had no control.

20. This Defendant is entitled to a set-off of damages and/or limitation of damages pursuant to statute.

21. The injuries and damages of which Plaintiff complains are contributed to by one or more persons from whom Plaintiff did not seek recovery in this action pursuant to R.C. 2307.23(C).

22. Plaintiff may not be the real party in interest over all or part of this claim.

23. Plaintiff may lack capacity to pursue this action.

24. Defendant asserts the defense of failure to mitigate damages.

25. Defendant asserts the defense of legal waiver.

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26. This answering Defendant respectfully reserves the right to assert additional affirmative defenses if ongoing discovery reveals that such defenses are warranted.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendant William S. Husel, D.O., prays that Plaintiff's Amended Complaint be dismissed as against him with prejudice and that he be allowed to go hence without delay and with his costs.

ARNOLD TODARO WELCH & FOLIANO CO., L.P.A.

By: /s/ Gregory B. Foliano

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Counsel for Defendant

William S. Husel, D.O.

JURY DEMAND

Defendant William S. Husel, D.O., hereby demands a trial by jury of the within action.

/s/ Gregory B. Foliano

Gregory B. Foliano (0047239)

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed with the Clerk via this Court's ECF/eFiling system this 1st day of March, 2019, which will provide service to all counsel of record. In addition, the undersigned certifies that an electronic copy of the foregoing has been served on the following:

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